LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 6455 **NOTE PREPARED:** Dec 31, 2012
BILL NUMBER: SB 316 **BILL AMENDED:**

SUBJECT: Economic Development Incentive Accountability.

FIRST AUTHOR: Sen. Mrvan **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL **IMPACT:** State
X DEDICATED
FEDERAL

Summary of Legislation: This bill requires the Indiana Economic Development Corporation (IEDC) to disclose all records related to taxpayer funded economic development incentives under the Open Records Law. The bill requires the IEDC's annual Job Creation Incentives and Compliance Report to be published on the Indiana Transparency Portal Internet web site.

The bill requires the IEDC and the Department of State Revenue (DOR) to compile information on all job creation incentives granted, including the aggregate amount of uncollected or diverted state tax revenues resulting from each incentive. It also requires this information to be included in the IEDC's annual Job Creation Incentives and Compliance Report.

This bill requires incentive recipients to prepare an annual progress report on the number of jobs created or retained, employee pay, and various other information concerning the use of the job creation incentives. It requires the IEDC to compile this information and include it in the IEDC's Annual Job Creation Incentives and Compliance Report.

This bill requires the IEDC to recapture incentives from a recipient who fails to meet any of the conditions specified in the incentive agreement. The recipient will be evaluated based on the following measures from the incentive agreement:
- Level of capital investment.
- Creation or retention of the promised number of jobs.
- Amount of wages paid to employees.

The bill requires the IEDC to compile information on all recapture activities and incentives recouped from unfulfilled commitments. This information is also to be included in the IEDC's annual Job Creation Incentives and Compliance Report.

This bill adds various job and employee definitions to the IEDC laws. It repeals and replaces the definition of "job creation incentive" without change to maintain alphabetical order. The bill repeals a duplicate statute concerning the requirement that the IEDC disclose the terms of a final incentive offer. It also makes technical corrections.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Department of State Revenue:* Under this bill, the DOR must report the aggregate amount of uncollected or diverted state revenues resulting from each state tax incentive to the IEDC each year. The DOR's current level of resources should be sufficient to provide this information.

Indiana Economic Development Corporation: This bill makes changes to the IEDC's Job Creation Incentives and Compliance Report, which is submitted annually to the Governor and the Legislative Council. Some of the required information must be provided by annual reports submitted by the recipients of the job creation incentives. The bill also requires the IEDC to report the aggregate amount of uncollected or diverted state tax revenue and report a summary of the information provided by the Certified Technology Parks. In addition, the bill requires the IEDC to report the outcomes of the recapture programs in their annual Job Creation Incentives and Compliance Report. The IEDC will likely incur additional expenses to comply with the new reporting requirements. Their current level of resources should be sufficient to satisfy the requirements of the bill.

Explanation of State Revenues: *Summary* - The bill requires the IEDC to confirm the recipient of a job creation initiative is in compliance with the conditions of the incentive agreement. If a recipient fails to satisfy the conditions of the agreement, they must pay back the appropriate amounts. The fiscal impact was estimated using historical IEDC compliance information. Since 1994, the IEDC has pursued $27 M in claw backs for competitive agreements and $4.5 M for grants. They have recovered a combined total of $23.5 M in collections. If you spread out the collections from 1994 to 2012, that would be approximately $1.4 M a year. The actual revenue impact would depend on the number of recipients who violate the provisions of their incentive agreement, the amount of the incentive provided, and the remaining assets of the business.

Additional Information - Under current statute, the recipient of a job creation incentive must pay back the amount of the incentive they received if they move or close. It also allows the IEDC to hold a hearing if they find a recipient is employing fewer people than stated in the incentive agreement. The hearing may result in the recipient returning some or all of the incentive awarded. This bill expands the recapture provisions. The bill states that an applicant violates the job creation agreement if they (1) move or close; (2) fail to make the specified level of capital investment; (3) employ fewer individuals than specified in the agreement or; (4) pay less in wages than specified in the agreement.

The bill defines a job creation incentive as a tax credit, tax deduction, grant, loan, or loan guarantee award provided by the state or an agency of the state for the purposes of encouraging the creation of new jobs. This applies to a variety of programs including: the Economic Development for a Growing Economy (EDGE)Tax Credit, Hoosier Business Investment Tax Credit, Skills Enhancement Fund, Business Development Loan Fund, and Industrial Development Project Guaranty Fund. The recapture provision applies to all job creation incentives, and if a recapture is initiated the money would be returned to the appropriate fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation.

Local Agencies Affected:

Information Sources: IEDC Compliance Report (2007-2012); IEDC Budget Presentation, November 28, 2012

Fiscal Analyst: Heath Holloway, 232-9867.